

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARCOS ARAGON,

Plaintiff/Petitioner,

v.

No. CIV 16-0836 JB/GBW

GERMAN FRANCO; HECTOR H.
BALDERAS,

Defendants/Respondents.

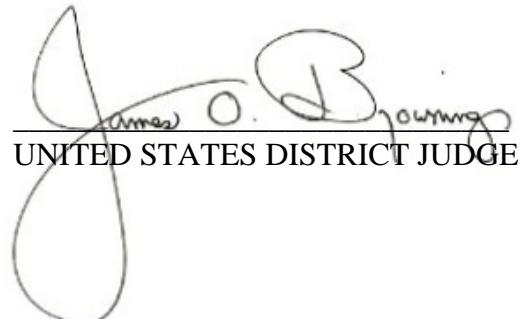
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on: (i) the Magistrate Judge's Proposed Findings and Recommended Disposition, filed September 23, 2016 (Doc. 7) ("PFRD"); and Petitioner's subsequent Motion to Withdraw Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus, filed October 31, 2016 (Doc. 10) ("Motion").

In his PFRD, the Honorable Gregory B. Wormuth, United States Magistrate Judge, found that Petitioner Marcus Aragon's Motion contained both exhausted and unexhausted claims. See PFRD at 1, 6-7. Judge Wormuth recommended that the Court grant Aragon an opportunity to dismiss the unexhausted claims in his petition or otherwise provide evidence of exhaustion, and that the Court dismiss his Petition in its entirety should he fail to respond within thirty days to the PFRD. See PFRD at 9.

Aragon filed no objections to the PFRD. In fact, Aragon filed a motion to withdraw his entire petition to present his unexhausted claims in state court. See Motion at 2. Franco and Balderas filed a response notifying the Court that they do not oppose the motion. See Response to Pro Se Petitioner Marco Aragon's Motion to Withdrawal [sic] Writ of Habeas Corpus [Doc. 1] [Doc. 10] at 1, filed November 4, 2016 (Doc. 11).

IT IS ORDERED that the Proposed Findings and Recommended Disposition, filed September 23, 2016 (Doc. 7) is adopted, and the Petitioner's Motion to Withdraw Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus, filed October 31, 2016 (Doc. 10) is granted. The Petition is dismissed without prejudice. A Final Judgment dismissing the case will be filed.



James O. Browning
UNITED STATES DISTRICT JUDGE

Counsel:

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Plaintiff Pro se

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Attorney for Defendants German Franco and Hector H. Balderas